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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.08.2018

Pronounced on : 04.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.6213 of 2013
and MP.No.1 of 2013

Venkatesan ... Petitioner/Accused

Vs.

1. The State rep by
The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai - 600 056.

2. Aravindan ... Respondents/Complainants

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.26 of 2013 on the file of the Judicial Magistrate No.II, Poonamallee and quash the same as illegal.

For Petitioner : Mr.J.C.Durairaj

For R1 : Mr.T.Shunmugarajeswaran
Government Advocate (Criminal side)

For R2 : No appearance

O R D E R

This petition has been filed by the accused to quash the proceedings in C.C.No.26 of 2013 on the file of the Judicial Magistrate, No.II, Poonamallee.

2. The learned counsel for the petitioner has submitted that the petitioner is a practicing Advocate. He further submitted that the de-facto complainant is a broker and with a view to blackmail the petitioner, the de-facto complainant gave a false complaint against the petitioner as he has cheated and purchased a Scorpio car for Rs.2,67,000/- (Rupees Two Lakhs and



Sixty Seven Thousand Only) bearing Regn. No.TN-09-AC-1020 by giving a false promise that he will pay the balance sale consideration of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only), but subsequently, he did not pay the said amount.

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3. He further submitted that the motor vehicle bearing Regn. No.TN-09-AC-1020 has been seized and produced in another case in Crime No.703 of 2011, J-8 Police Station, Neelankarai and in the said case, the vehicle particulars issued by the Assistant Registering Authority, Chennai (West), Chennai-78 has been enclosed and in the said particulars, it is mentioned that the vehicle bearing Regn No.TN-09-AC-1020 is an omni bus and so, it is clear that the allegations made by the de-facto complainant that the petitioner herein has purchased a Scorpio car bearing Regn.No.TN-09-AC-1020 by giving a false promise is false and therefore, he requests to quash the proceedings against the petitioner herein in C.C.No.26 of 2013 on the file of the Judicial Magistrate, No.II, Poonamallee.

4. The learned Government Advocate (Criminal side) has submitted that the petitioner is not entitled to rely upon the document, which was filed in another case. He further submitted that in the complaint and also in the statement recorded under Section 161 Cr.P.C., the de-facto complainant has clearly stated that the petitioner herein has cheated him, after purchasing the Scorpio car bearing Regn.No.TN-09-AC-1020 by giving a false promise that he will pay the balance amount of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) within a short period. Subsequently, he did not make any payment. He further submitted that at the time of purchasing the car, the petitioner herein has handed over the original R.C. Book of the Scorpio car bearing Regn. No.TN-09-AC-1020 and only after perusing the original RC book, it can be decided whether the vehicle bearing Regn. No.TN-09-AC-1020 is a Scorpio car or not and the said fact can be decided only after taking evidence before the Trial Court and therefore, he prayed to dismiss the petition.

5. A perusal of the records produced by the petitioner shows that the first respondent has filed a charge sheet against the petitioner herein stating that in the month of December 2010, the petitioner herein has purchased a Scorpio car bearing Regn.No.TN-09-AC-1020 for Rs.2,67,000/- (Rupees Two Lakh and Sixty Seven Thousand Only) on payment of a sum of Rs.1,17,000/- and he undertook to pay the balance amount of Rs.1,50,000/- and accordingly, he issued a cheque for the said amount and also handed over the Original RC book to the de-facto complainant and subsequently he did not make any payment and hence he is liable to be punished under Sections 406 and 420 of IPC.



6. Based on the said charge sheet, the learned Judicial Magistrate, No.II, Poonamallee, has taken the case in C.C.No.26 of 2013 and ordered Non-Bailable Warrant against the petitioner/accused. The accused has filed this petition to quash the proceedings in C.C.No.26 of 2013 on the file of the Judicial Magistrate, No.II, Poonamallee. According to the petitioner, the vehicle bearing Regn. No.TN-09-AC-1020 is not at all a Scorpio car. In support of his contention, he relied upon the particulars furnished by the Assistant Registering Authority Chennai (West), Chennai-78, dated 21.01.2014, which was filed in another case in Crime No.703 of 2011, J-8 Police Station, Neelankarai. The petitioner has also filed a copy of the alteration report filed in that case in which it is clearly stated that the vehicle bearing Regn.No.TN-09-AC-1020 is a Scorpio car.

7. Further in the particulars furnished by the Assistant Registering Authority Chennai (West), Chennai also, it is stated that the said vehicle is non-transport and it is a light motor vehicle. However, it is mentioned as Omni bus. Whether the said vehicle is a car or omni bus can be decided only after taking evidence by the trial Court. The said question cannot be decided by this Court in the application filed under Section 482 Cr.P.C.

8. The de-facto complainant has stated in his complaint and also in the statement recorded under Section 161 Cr.P.C that he has sold only Scorpio car bearing Regn.No.TN-09-AC-1020 to the petitioner herein. The other witnesses also have stated in their 161 statements that the petitioner has purchased only a Scorpio car bearing Regn. No.TN-09-AC-1020. Hence, this Court is of the view that there is a prima facie case against the petitioner. Therefore, this petition is liable to be dismissed.

9. In the result, this petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



To

1. The Judicial Magistrate No.II,
Poonamallee.

2. The Inspector of Police,
T-12, Poonamallee Police Station,
Chennai - 600 056.

3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.6213 of 2013
and MP.No.1 of 2013

rr[co]
srg 26/11/2018